S.B. Civil Writ Petition No.3028/2003.

Date : 27.01.2005

Hon'ble Mr. Justice R.P.Vyas

Mr. S.P. Sharma for petitioner.
Mr. Shailendra Kala for respondents.

The instant writ petition has been filed by the petitioner with a prayer that by an appropriate writ, order or direction, the impugned award dated 30.04.2003 (Annexure-1), passed by the Judge, Labour Court, Jodhpur in Labour Case No.229/2001 (Binja Ram Vs. the Manager, Somani Trust Society, Molasar) may be quashed and set aside.

The facts giving rise to the instant petition are that the petitioner was appointed some 30 years back as Mali (Bagwan) on daily wages at the rate of Rs.300/- per month with the respondent Somani Trust Society to look after its garden. The respondent No.2 the Somani Trust Society, Molasar, (hereinafter referred to as `the Society'), terminated the services of the petitioner w.e.f. 31.5.99, without complying with the provisions of Section 25F of the Industrial Disputes Act, 1947.

Being aggrieved by the action of the respondent-Society, the petitioner filed a claim application

before the Labour Commissioner, Nagaur, upon which the notices were sent to the respondent Society. The conciliation proceedings were initiated but the talks failed and finally the matter was referred to the Government on 24.01.2001 for reference.

The State Government getting convinced to the grievance of the petitioner referred the matter to the Judge, Labour Court, Jodhpur for adjudication vide reference dated 7.4.2001.

The respondent Society filed its reply. An affidavit on behalf of the Society was filed by Mr.Radhey Shyam Sharma, wherein he denied the claim of the petitioner and stated that since the petitioner has already attained the age of 60 years, he has been retired by the Society on reaching the age of superannuation.

The learned Labour Court, after hearing learned counsel for the parties, dismissed the claim petition of the petitioner vide its impugned award dated 30.4.2003 and held that the services of the petitioner rightly terminated by the Somani Trust Society on completion of his 60 years of age w.e.f. 31.5.1999.

Aggrieved by the impugned order dated 30.4.2003, passed by the Labour Court, Jodhpur, the petitioner has filed the instant petition.

I have heard learned counsel for the parties and perused the impugned award of the Labour Court.

The Society is a charitable trust whose object is to run religious activities and provide services for mankind by not making profit. The petitioner was engaged as a Mali. On 31.5.1999, the petitioner has completed the age of 60 years and on being completion of 60 years, he has been superannuated.

An order was sent to the petitioner but he refused to receive the same and, thereafter on 1.6.1999 a Registered AD letter was sent to the petitioner which was received by him vide Annexure-R/2.

Now, as per declaration (Annexure-R/3) made by the petitioner, he has completed about 65 years of age. For these reasons, the petitioner is not entitled to get any benefit and the grounds of the termination mentioned in the petition are not tenable.

The learned Labour Court, after hearing learned

counsel for the parties, on examination of the complete record and on appreciation of the statements made by the parties reached to the conclusion that the petitioner has completed 60 years of age, which is very well established by the documentary evidence (Annexure-R/3) available on the record.

The finding of the Labour Court is based on sound reasonings. It does not call for any interference by this Court in its extra ordinary jurisdiction under Article 226 and 227 of the Constitution of India.

In this view of the matter, I do not find any merit in the instant petition. The same is hereby dismissed. No order as to costs.

(R.P. Vyas), J.